Remarks

Claims 1-10 are pending in the subject application and currently stand rejected. Reconsideration and favorable consideration of the pending claims is respectfully requested in view of the following remarks.

Applicant appreciates Examiners further explanation to the previous rejection of the claims. As the current rejections of the claims do not include a rejection over Tung *et al.*, Man, and Wei, a further discussion of the rejections of the previous Office Action is not included here.

Claims 1-10 are rejected under 35 U.S.C. § 103(a) as being unpatentable over Fukuzumi (JP 2002-334928) in view of Cooney III *et al.* (U.S. 6,339,258). Applicant respectfully traverses.

Fukuzumi does not teach a plurality of first contact plugs formed in a plurality of first via holes of the first insulating layer, each of the plurality of first contact plugs being electrically connected to either the bottom electrode or the upper electrode. At page 3 of the Action, reference is made to Fukuzumi as teaching "each of the plurality of first contact plugs being electrically connected to either the bottom (**23** connected to channel) or upper (**23a** to gate electrode)." However, the referenced channel and gate electrode **do not** provide a MOS capacitor.

In particular, the gate electrode pattern **13a** of Fukuzumi is formed on an isolation region **11**. By forming the gate electrode pattern on an isolation region, there is no channel region that could be considered a lower electrode to which a first contact plug is connected. Indeed, contact plug **23** is not "connected" to a channel of the gate electrode **13a**. Instead, contact plug **23** is formed at a cell transistor terminal related to the gate electrode (word line) **13** (see English Translation paragraphs [0022] and [0025]).

Conversely, the gate electrode **13** having a wiring connected at a source/drain region (reference numbers **17** and **19**) does not also include a second contact plug contacting the top electrode **13** with anti-fuse and a third contact plug formed thereon.

In addition, it is not clear from Fukuzumi what material is used to form the gate protective film **14**. Upon inspection of Figure 3a, the gate protective film may be insulative because of the poly plug **17** provided between adjacent gates and connected to the metal plug **23**. However, the gate protective film could be conductive if "drawer metal wiring" **23a** should be electrically connected to the gate electrode pattern **13a**.

Furthermore, Cooney III *et al.* does not cure these defects. Accordingly, Applicant respectfully requests reconsideration and withdrawal of the rejection of claims 1-10 under 35 U.S.C. § 103(a).

In view of the foregoing remarks, Applicant believes that the claims as currently pending are in condition for allowance, and such action is respectfully requested.

Applicant invites the Examiner to call the undersigned if clarification is needed on any of this response, or if the Examiner believes a telephonic interview would expedite the prosecution of the subject application to completion.

The Commissioner is hereby authorized to charge any fees under 37 C.F.R. §§ 1.16 or 1.17 as required by this paper to Deposit Account 19-0065.

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